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By: **Delegate DeCarlo**  
Introduced and read first time: February 21, 2000  
Assigned to: Rules and Executive Nominations

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A BILL ENTITLED

1 AN ACT concerning

2 **Correctional Employees' Bill of Rights**

3 FOR the purpose of establishing certain procedures for certain investigations or  
4 interrogations of correctional employees; establishing certain guidelines for the  
5 conduct of an interrogation of a correctional employee by a law enforcement  
6 agency; establishing a certain procedure for filing a complaint alleging certain  
7 actions of brutality against a correctional employee; requiring a correctional  
8 employee under investigation receive certain information; prohibiting certain  
9 threats from being made against a correctional employee under certain  
10 circumstances; requiring certain records be kept of an interrogation of a  
11 correctional employee; prohibiting an agency from inserting certain material  
12 into a file of a correctional employee; providing certain procedures for the  
13 expungement of a certain complaint from a file of a correctional employee;  
14 defining the term "correctional employee"; and generally relating to the  
15 correctional employees' bill of rights.

16 BY adding to  
17 Article - Correctional Services  
18 Section 3-223  
19 Annotated Code of Maryland  
20 (1999 Volume)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
22 MARYLAND, That the Laws of Maryland read as follows:

23 **Article - Correctional Services**

24 3-223.

25 (A) IN THIS SECTION, "CORRECTIONAL EMPLOYEE" MEANS:

26 (1) A CORRECTIONAL OFFICER AS DEFINED IN § 8-201(E) OF THIS  
27 ARTICLE; OR

1           (2)     A CORRECTIONAL EMPLOYEE ASSIGNED TO MEET WITH PRISONERS  
2 TO DETERMINE PLACEMENT WITHIN THE SYSTEM.

3     (B)     THE INVESTIGATION OR INTERROGATION OF A CORRECTIONAL  
4 EMPLOYEE BY A LAW ENFORCEMENT AGENCY, FOR ANY REASON WHICH COULD  
5 LEAD TO DISCIPLINARY ACTION, DEMOTION, OR DISMISSAL, SHALL BE GOVERNED BY  
6 THE PROVISIONS OF THIS SECTION.

7     (C)     (1)     AT THE REQUEST OF A CORRECTIONAL EMPLOYEE UNDER  
8 INTERROGATION, THE EMPLOYEE SHALL HAVE THE RIGHT TO BE REPRESENTED BY  
9 COUNSEL OR ANY OTHER RESPONSIBLE REPRESENTATIVE OF THE EMPLOYEE'S  
10 CHOICE WHO SHALL BE PRESENT AND AVAILABLE FOR CONSULTATION AT ALL  
11 TIMES DURING THE INTERROGATION, UNLESS WAIVED BY THE EMPLOYEE.

12           (2)     THE INTERROGATION SHALL BE SUSPENDED FOR A PERIOD OF TIME  
13 NOT TO EXCEED 10 DAYS UNTIL REPRESENTATION IS OBTAINED.

14           (3)     THE INTERROGATION SHALL BE CONDUCTED AT A REASONABLE  
15 HOUR, PREFERABLY AT A TIME WHEN THE CORRECTIONAL EMPLOYEE IS ON DUTY,  
16 UNLESS THE SERIOUSNESS OF THE INVESTIGATION IS OF SUCH A DEGREE THAT AN  
17 IMMEDIATE INTERROGATION IS REQUIRED.

18           (4)     THE CORRECTIONAL EMPLOYEE UNDER INVESTIGATION SHALL BE  
19 INFORMED OF THE NAME, RANK, AND COMMAND OF THE OFFICER IN CHARGE OF  
20 THE INVESTIGATION, THE INTERROGATING OFFICER, AND ALL PERSONS PRESENT  
21 DURING THE INTERROGATION.

22           (5)     ALL QUESTIONS DIRECTED TO THE CORRECTIONAL EMPLOYEE  
23 UNDER INTERROGATION SHALL BE ASKED BY AND THROUGH ONE INTERROGATOR  
24 DURING ANY ONE INTERROGATING SESSION.

25           (6)     INTERROGATING SESSIONS SHALL BE FOR REASONABLE PERIODS  
26 AND SHALL BE TIMED TO ALLOW FOR ANY PERSONAL NECESSITIES AND REST  
27 PERIODS AS ARE REASONABLY NECESSARY.

28     (D)     (1)     A COMPLAINT AGAINST A CORRECTIONAL EMPLOYEE, ALLEGING  
29 BRUTALITY IN THE EXECUTION OF THE EMPLOYEE'S DUTIES, MAY NOT BE  
30 INVESTIGATED UNLESS THE COMPLAINT BE DULY SWORN TO, BEFORE AN OFFICIAL  
31 AUTHORIZED TO ADMINISTER OATHS, BY:

32                   (I)     THE AGGRIEVED PERSON;

33                   (II)    A MEMBER OF THE AGGRIEVED PERSON'S IMMEDIATE FAMILY;

34                   (III)   A PERSON WITH FIRSHTHAND KNOWLEDGE OBTAINED AS A  
35 RESULT OF THE PRESENCE AT AND OBSERVATION OF THE ALLEGED INCIDENT; OR

36                   (IV)   THE PARENT OR GUARDIAN IN THE CASE OF A MINOR CHILD.

1           (2)     AN INVESTIGATION WHICH COULD LEAD TO DISCIPLINARY ACTION  
2 UNDER THIS SUBTITLE FOR BRUTALITY MAY NOT BE INITIATED AND AN ACTION MAY  
3 NOT BE TAKEN UNLESS THE COMPLAINT IS FILED WITHIN 90 DAYS OF THE ALLEGED  
4 BRUTALITY.

5     (E)     (1)     THE CORRECTIONAL EMPLOYEE UNDER INVESTIGATION SHALL BE  
6 INFORMED IN WRITING OF THE NATURE OF THE INVESTIGATION PRIOR TO ANY  
7 INTERROGATION.

8           (2)     UPON COMPLETION OF THE INVESTIGATION, THE CORRECTIONAL  
9 EMPLOYEE SHALL BE NOTIFIED OF THE NAME OF ANY WITNESS AND ALL CHARGES  
10 AND SPECIFICATIONS AGAINST THE EMPLOYEE NOT LESS THAN 10 DAYS PRIOR TO  
11 ANY HEARING.

12          (3)     THE CORRECTIONAL EMPLOYEE UNDER INVESTIGATION SHALL BE  
13 FURNISHED WITH A COPY OF THE INVESTIGATORY FILE NOT LESS THAN 10 DAYS  
14 BEFORE ANY HEARING IF THE EMPLOYEE AND THE EMPLOYEE'S REPRESENTATIVE  
15 AGREE:

16                   (I)     TO EXECUTE A CONFIDENTIALITY AGREEMENT WITH THE LAW  
17 ENFORCEMENT AGENCY TO NOT DISCLOSE ANY OF THE MATERIAL CONTAINED IN  
18 THE RECORD FOR ANY PURPOSE OTHER THAN TO DEFEND THE EMPLOYEE; AND

19                   (II)    TO PAY ANY REASONABLE CHARGE FOR THE COST OF  
20 REPRODUCING THE MATERIAL INVOLVED.

21     (F)     THE CORRECTIONAL EMPLOYEE UNDER INTERROGATION MAY NOT BE  
22 THREATENED WITH TRANSFER, DISMISSAL, OR DISCIPLINARY ACTION.

23     (G)     (1)     A COMPLETE RECORD, EITHER WRITTEN, TAPED, OR TRANSCRIBED,  
24 SHALL BE KEPT OF THE COMPLETE INTERROGATION OF A CORRECTIONAL  
25 EMPLOYEE, INCLUDING ALL RECESS PERIODS.

26          (2)     UPON COMPLETION OF THE INVESTIGATION, AND UPON REQUEST  
27 OF THE CORRECTIONAL EMPLOYEE UNDER INVESTIGATION OR HIS  
28 REPRESENTATIVE, A COPY OF THE RECORD OF HIS INTERROGATION SHALL BE MADE  
29 AVAILABLE NOT LESS THAN 10 DAYS BEFORE ANY HEARING.

30     (H)     (1)     A CORRECTIONAL AGENCY MAY NOT INSERT ANY ADVERSE  
31 MATERIAL INTO A FILE OF A CORRECTIONAL EMPLOYEE UNLESS THE EMPLOYEE  
32 HAS AN OPPORTUNITY TO REVIEW, SIGN, RECEIVE A COPY OF, AND COMMENT IN  
33 WRITING UPON THE ADVERSE MATERIAL, UNLESS THE EMPLOYEE WAIVES THESE  
34 RIGHTS.

35          (2)     A CORRECTIONAL EMPLOYEE, UPON WRITTEN REQUEST, MAY HAVE  
36 ANY RECORD OF A FORMAL COMPLAINT MADE AGAINST THE EMPLOYEE EXPUNGED  
37 FROM ANY FILE IF:

38                   (I)     THE AGENCY INVESTIGATING THE COMPLAINT HAS  
39 EXONERATED THE CORRECTIONAL EMPLOYEE OF ALL CHARGES IN THE COMPLAINT,

1 OR DETERMINED THAT THE CHARGES WERE UNSUSTAINED OR UNFOUNDED, OR AN  
2 ADMINISTRATIVE HEARING BOARD ACQUITS, DISMISSES, OR MAKES A FINDING OF  
3 NOT GUILTY; AND

4 (II) 3 YEARS HAVE PASSED SINCE THE FINDINGS BY THE AGENCY  
5 OR ADMINISTRATIVE HEARING BOARD.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
7 October 1, 2000.